

10.09.2025.
Court No.13
Item No. 7
ap

M.A.T. No. 945 of 2025
With
I.A. No. CAN 1 of 2025

Amit Kumar Mishra
Versus
Dinanath Singh & Ors.

Mr. Kuldip Mallick,
Mr. Arun Kumar Upadhaya,
Mrs. Shobha Upadhyay,
Ms. Akanksha Mukherjee,
Ms. Homaira Akhter.

...For the appellant.

Mr. Swapan Banerjee, ld. AGP,
Mr. Soumen Chatterjee.

...For the State.

Mr. Srijib Chakraborty,
Mr. Subhajit Mukherjee,
Mr. Swakshar Kumar Mondal.

...For the respondent no.1.

1. Affidavit-of-service filed in Court today be taken on record.

2. The instant intra court appeal is directed against an order dated 16th June, 2025 passed by a learned Single Judge of this Court in W.P.A. 12318 of 2025. The appellant was a private respondent in the writ petition. He had complained that the respondent/writ petitioner had effected construction of a boundary wall that has obstructed free ingress and egress to his property.

3. Based on the aforesaid complaint, Asansol Municipal Corporation lodged an enquiry. Notice was first given for hearing on 3rd June, 2024 by a letter dated 31st May, 2024. Joint inspection was fixed on

2nd August, 2024 when the appellant was present but the writ petitioner was not present. A further date for joint inspection was fixed on 23rd August, 2024 when a joint inspection was conducted in presence of both the sides. A further date for site inspection was fixed on 18th December, 2024 to determine the area of illegal construction executed by the writ petitioner/respondent.

4. The Superintending Engineer found that the appellant had not only constructed a boundary wall in his premises but has also encroached upon the premises of the appellant. It was further found that a ground plus first floor was constructed by the writ petitioner/respondent comprised in 2681 sq. ft. without any sanction plan or permission. The Superintending Engineer, therefore, by his report/order dated 22nd May, 2025 directed demolition of the unauthorized construction of the premises in question.

5. Mr. Srijib Chakraborty, learned Counsel appearing on behalf of the respondent/writ petitioner would argue that the Superintending Engineer did not have the power to issue an order of demolition and it is only the Commissioner of Asansol Municipal Corporation that is empowered to do so.

6. However, it appears that by a Notification dated 9th February, 2024, the Superintending Engineer was empowered to issue the order of demolition. Such

Notification was issued under Section 47(3)(b) of the West Bengal Municipal Corporation Act, 2006.

7. Mr. Chakraborty would lastly argue by reference to a land Parcha stating that there was already a structure or house standing at the said premises prior to coming into force of the Panchayat Act, 1973 in its latest version and obviously before the West Bengal Municipal Corporation Act, 2006.

8. This Court firstly notes that the Parcha indicates existence of two rooms. There is no mention of boundary wall or construction of a ground plus one storied structure on the said land. The said structure must have been constructed by the writ petitioner after the coming into force of the Panchayat Act, 1973 or the Asansol Municipal Corporation.

9. These are, however, matters within the realm of the Administrative Authority and cannot be entered into by a Writ Court.

10. In the backdrop of the above, the findings of Asansol Municipal Corporation, which found unauthorized and illegal construction by the writ petitioner, the learned Single Judge of this Court could not have set aside and ignored the report of Asansol Municipal Corporation dated 22nd May, 2025.

11. It is for the Asansol Municipal Corporation to decide about the propriety of a construction effected within its jurisdiction. The report and order of Asansol

Municipal Corporation clearly appears to have been interfered with without any lawful reason or ground.

12. In those circumstances, the impugned order setting aside the report of Asansol Municipal Corporation dated 22nd May, 2025 is set aside. Asansol Municipal Corporation shall proceed to carry out the said order dated 22nd May, 2025 and take steps for demolition of unauthorized construction as expeditiously as possible, preferably within a period of one month from the date of communication of a copy of this order.

13. With the aforesaid directions, M.A.T. 945 of 2025 is allowed and disposed of.

14. In view of disposal of the appeal itself, the connected application being CAN 1 of 2025 is also disposed of.

15. There will be no order as to costs.

16. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)